

## CCRB INVESTIGATIVE RECOMMENDATION

|   |                                     |                           |  |   |                                 |
|---|-------------------------------------|---------------------------|--|---|---------------------------------|
| Investigator:<br>Henry Oliver                     | Team:<br>Squad #13                  | CCRB Case #:<br>201810573 | <input type="checkbox"/> Force                         | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|   |                                     |                           | <input checked="" type="checkbox"/> Abuse              | <input type="checkbox"/> O.L.                 | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Thursday, 10/18/2018 7:05 AM  | Location of Incident:<br>[REDACTED] | Precinct:<br>83           | 18 Mo. SOL<br>4/18/2020                                | EO SOL<br>12/3/2020                           |                                 |
| Date/Time CV Reported<br>Thu, 12/13/2018 11:12 AM | CV Reported At:<br>IAB              | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Thu, 12/20/2018 11:02 AM |   |                                 |

| Complainant/Victim | Type       | Home Address |
|--------------------|------------|--------------|
| [REDACTED]         | [REDACTED] | [REDACTED]   |

| Subject Officer(s)     | Shield | TaxID  | Command |
|------------------------|--------|--------|---------|
| 1. DT3 Daniel Mizvesky | 1465   | 946012 | NARCBBN |
| 2. DT3 Allan Ward      | 520    | 949783 | NARCBBN |
| 3. An officer          |        |        |         |

| Witness Officer(s)         | Shield No | Tax No | Cmd Name |
|----------------------------|-----------|--------|----------|
| 1. SGT William Mcneece     | 03813     | 944799 | NARCBBN  |
| 2. DT3 James Schuessler    | 4963      | 947477 | NARCBBN  |
| 3. DT3 Nicholas Kowatch    | 1299      | 951884 | NARCBBN  |
| 4. DT3 Alejandro Villalona | 101       | 947866 | NARCBBN  |

| Officer(s)            | Allegation  | Investigator Recommendation |
|-----------------------|---|-----------------------------|
| A.DT3 Allan Ward      | Discourtesy: Detective Allan Ward spoke discourteously to § 87(2)(b) [REDACTED] | [REDACTED]                  |
| B.DT3 Daniel Mizvesky | Abuse: Detective Daniel Mizvesky searched § 87(2)(b) [REDACTED]                 | [REDACTED]                  |
| C. An officer         | Abuse: An officer strip-searched § 87(2)(b) [REDACTED]                          | [REDACTED]                  |

### Case Summary

On December 13, 2018, § 87(2)(b) called IAB and filed this complaint. On December 20, 2018, the CCRB received the complaint via IAB log #18-49242.

On October 18, 2018, at approximately 7:05 a.m., § 87(2)(b) was standing at the intersection of § 87(2)(b) in Brooklyn, when he was approached by Detective Daniel Mizvesky, Detective Allan Ward, and Detective Alejandro Villalona, all of Narcotics Borough Brooklyn North. Det. Ward allegedly told § 87(2)(b) he witnessed a man touch § 87(2)(b)'s "dick," (**Allegation A**, § 87(2)(g)) and Det. Mizvesky searched § 87(2)(b) (**Allegation B**, § 87(2)(g)). § 87(2)(b) was placed under arrest for § 87(2)(b), § 87(2)(a) 160.50 and transported to the 83<sup>rd</sup> Precinct stationhouse. Once at the stationhouse, and unidentified officer allegedly strip-searched § 87(2)(b) (**Allegation C**, § 87(2)(g)).

The Office of Court Administration ("OCA") has no record of or disposition for § 87(2)(b)'s arrest (BR 01).

There is no video evidence in this case.

### Findings and Recommendations

**Allegation (A) Discourtesy: Detective Allan Ward spoke discourteously to § 87(2)(b)**  
§ 87(2)(b) said that while at the intersection of § 87(2)(b) in Brooklyn, he encountered a woman who he was familiar with but did not know by name, whom he offered a cigarette (BR 02). After they spoke for a few minutes, he walked away from her and was approached by officers in an unmarked vehicle. The officers exited, and Det. Ward, identified via investigation, told § 87(2)(b) he saw a man (presumably the woman § 87(2)(b) conversed with) "feel § 87(2)(b)'s] dick."

Det. Ward said that from inside of their police vehicle, Det. Mizvesky observed § 87(2)(b) with contraband in plain sight, parked at the intersection of § 87(2)(b) and the officers exited the vehicle. Det. Mizvesky immediately placed § 87(2)(b) under arrest. Det. Ward learned that Det. Mizvesky observed § 87(2)(b) holding a "crack pipe" in plain sight and that § 87(2)(b) was being arrested for criminal possession of a controlled substance. Det. Ward denied telling § 87(2)(b) that he witnessed a man feel § 87(2)(b)'s "dick," and denied witnessing § 87(2)(b) interact with any civilians during the incident (BR 03).

Det. Mizvesky and Det. Villalona denied hearing Det. Ward make the alleged discourteous statement (BR 04 and BR 05).

§ 87(2)(g)

**Allegation (B) Abuse of Authority: Detective Daniel Mizvesky searched § 87(2)(b)**  
§ 87(2)(b) said Det. Ward accused him of soliciting sex from the individual § 87(2)(b) had been speaking with. § 87(2)(b) told the officers that he and the individual never made physical contact. Det. Mizvesky ordered § 87(2)(b) to produce his ID. § 87(2)(b) reached for his wallet. Det. Mizvesky instructed him to keep his hands out of his pockets. Det. Mizvesky searched § 87(2)(b).

§ 87(2)(b)'s front and back pants pockets, and removed § 87(2)(b)'s wallet from one of the pockets. § 87(2)(b) had his wallet, loose money, his car keys, 25 business cards for his recycling business, and a pack of cigarettes on his person that day. Only his wallet was removed from § 87(2)(b)'s pockets. § 87(2)(b) protested the search and in response, Det. Mizvesky asked Det. Ward and Det. Villalona if the officers should take § 87(2)(b) to the 83<sup>rd</sup> Precinct stationhouse. Det. Ward and Det. Villalona both answered affirmatively. § 87(2)(b) was placed in handcuffs, placed inside of the unmarked vehicle the officers arrived in, and transported to the stationhouse.

Property Clerk Invoice #§ 87(2)(b) notes that a clear pipe with crack cocaine residue was vouchered after § 87(2)(b)'s arrest (BR 06). However, § 87(2)(b) denied being in possession of any contraband, including a pipe, and stated that no officer ever mentioned a pipe during the incident (BR 07).

Det. Mizvesky said he observed § 87(2)(b) and an unknown woman speaking in an area known for the sale and use of crack cocaine, heroin, and synthetic marijuana. Det. Mizvesky parked his vehicle to observe § 87(2)(b) and the woman speaking to each other. § 87(2)(b) walked away from the woman and when he was two feet away from the police vehicle, Det. Mizvesky observed § 87(2)(b) holding a foggy glass tube with one burnt end that he recognized to be a "crack pipe." Det. Mizvesky informed his partners of his observations. The officers exited the vehicle together and approached § 87(2)(b). Det. Mizvesky identified himself, presented his shield to § 87(2)(b) and told § 87(2)(b) he was under arrest for possession of a controlled substance. Det. Mizvesky placed § 87(2)(b) in handcuffs and searched him incident to arrest before placing him in the vehicle and transporting him to the 83<sup>rd</sup> Precinct stationhouse. Det. Mizvesky denied ever suspecting § 87(2)(b) of soliciting sex from another individual, and denied telling or hearing any other officer tell § 87(2)(b) that he was being arrested for any reason other than possession of the controlled substance.

Det. Ward and Det. Villalona said § 87(2)(b) was considered under arrest the moment Det. Mizvesky observed him in possession of the pipe. He was searched after being placed in handcuffs and before being placed in the police vehicle.

Arrest Report #§ 87(2)(b) notes that at the time and place of occurrence, § 87(2)(b) was observed in possession of crack cocaine in plain view in a public place (BR 08). There is no mention of any other charge for § 87(2)(b)'s arrest.

NYPD Patrol Guide, Procedure 208-03 requires officers to frisk and field search a prisoner prior to transporting him (BR 09).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)

**Allegation (C) Abuse of Authority: An officer strip-searched § 87(2)(b)**

§ 87(2)(b) said that upon his arrival at the 83<sup>rd</sup> Precinct stationhouse, he was immediately taken to the holding cell area and searched in the public area near the cells. An unknown officer, described by § 87(2)(b) as a Hispanic or Asian male, standing 5'7" tall, with black hair, instructed § 87(2)(b) to remove his belt, shoes, socks, pants, and shirt. § 87(2)(b) was unable to recall if the officer was in uniform or plainclothes.) Det. Mizvesky, Det. Ward, and Det. Villalona were not present. The unknown officer searched the items of clothing § 87(2)(b) removed, and never made physical contact with § 87(2)(b). § 87(2)(b) was instructed to put his clothing back on, and was placed in a private holding cell.

Det. Mizvesky stated that § 87(2)(b) was searched again at the stationhouse before being placed in a holding cell, but he could not recall if he or another officer conducted the search. Det. Mizvesky denied that § 87(2)(b) was ever ordered to remove his shirt and pants, and denied that § 87(2)(b) was strip-searched at any point.

Det. Ward denied being present at the time § 87(2)(b) was allegedly strip-searched at the stationhouse, and denied learning that a strip-search occurred. Det. Villalona did not recall if he was present with § 87(2)(b) at the stationhouse. He did not know if § 87(2)(b) was strip-searched.

Sgt. McNeece, the supervisor who approved § 87(2)(b)'s arrest, did not recall this incident, but denied that § 87(2)(b) was strip-searched given a lack of documentation of a strip-search on the related NYPD documents (BR 10).

§ 87(2)(b)'s command log entry does not document that § 87(2)(b) was strip-searched (BR 11). § 87(2)(b)'s arrest report notes that he was not strip-searched.

The Narcotics Borough Brooklyn North officers were in the area that day after having executed a search warrant. During his CCRB statement, Det. Ward said procedurally, the narcotics officer assigned to operate the prisoner van would be responsible for conducting searches of arrested individuals. The Pre-Execution Search Warrant Plan for October 18, 2018, makes no mention of which officer was assigned to operate the prisoner van nor was any interviewed officer able to identify the officer assigned to the prisoner van (BR 12).

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b)

- § 87(2)(b) [REDACTED]
- [REDACTED]
- Det. Mizvesky has been a member of service for 11 years and has been a subject in six CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
- Det. Ward has been a member of service for nine years and has been a subject in 10 CCRB complaints and 23 allegations, none of which were substantiated. § 87(2)(g) [REDACTED]

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b) [REDACTED]
- On July 15, 2019, a Notice of Claim inquiry was submitted to the New York City Office of the Comptroller. Its results will be added to the casefile upon receipt (BR 15).

Squad No.: \_\_\_\_\_

|               |           |                    |       |
|---------------|-----------|--------------------|-------|
| Investigator: | _____     | _____              | _____ |
|               | Signature | Print Title & Name | Date  |

|               |           |                    |       |
|---------------|-----------|--------------------|-------|
| Squad Leader: | _____     | _____              | _____ |
|               | Signature | Print Title & Name | Date  |

|           |           |                    |       |
|-----------|-----------|--------------------|-------|
| Reviewer: | _____     | _____              | _____ |
|           | Signature | Print Title & Name | Date  |